



SENT TO COUNCIL ON:

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MAY 25 2005

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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Corsiglia
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: May 23, 2005

Approved

Date

May 25, 2005

COUNCIL DISTRICT: Citywide

INFORMATION

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF JANUARY 1, 2005 THROUGH MARCH 31, 2005

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of January 1, 2005 through March 31, 2005.

ANALYSIS

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or grant Housing and Homeless funds, Predevelopment funds and Housing Rehabilitation Program funds; to negotiate and execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or

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dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

ACTIONS TAKEN BY THE DIRECTOR OF HOUSING

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of January 1, 2005 through March 31, 2005:

Housing Trust Fund Grants Approved:

Martha's Kitchen	\$45,000
Unity Care Group	\$20,000
Concern for the Poor	<u>\$10,493</u>
TOTAL:	\$75,493

Housing Rehabilitation and Improvement Loans and Grants Approved:

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
REHABILITATION LOANS	18	\$ 547,024
REHABILITATION GRANTS	89	\$1,212,450
PAINT GRANTS	0	<u>\$ ----0-----</u>
TOTAL:		\$1,759,474

Modifications to Council-Approved Loan Terms & Conditions:

Villa Torre II Family Apartments - District: 3 – SNI: N/A

On June 26, 2001, the City Council approved a loan of up to \$5,227,000 during construction and up to \$5,646,000 at permanent funding to 985 South Sixth Street Associates, L.P., for the Villa Torre II Family Apartments project. On March 9, 2005, the Director of Housing approved the following amendments:

- Defer a portion of the construction period interest owed on the Loan in the amount of \$340,000. The total interest accrued from origination of the loan through the Conversion Date of March 10, 2005 is \$803,511.39, of which \$443,950.49 will be paid from the interest reserve account held back by the City and \$19,560.90 will be paid by the Borrower. The deferred interest will be added to the permanent loan with an increase from \$5,646,000 to \$5,986,000.
- Clarify language of the Note with references to “Payments” and “Net Cash Flow.”
- Allow the City Loan to subordinate to a \$785,000 note funded by the developer dated March 10, 2005 that will fund the gap created by the partial redemption of the bonds, and allow the note repayment as a Permitted Expense as provided for in the City note, so long as the terms and amount do not exceed the original permanent loan by Fannie Mae.

All other terms and conditions remain as approved by the City Council.

Villagio Apartments – District: 8 – SNI: N/A

On June 26, 2001, the City Council approved a loan of up to \$4,134,000 during construction and up to \$4,383,000 at permanent funding to Villages Parkway Associates, L.P., for the Villagio Apartments project. On March 9, 2005, the Director of Housing approved the following amendments:

- Defer a portion of the construction period interest owed on the Loan in the amount of \$320,000. The total interest accrued from origination of the loan through the Conversion Date of March 10, 2005 is \$582,773.14, of which \$244,971.42 will be paid from the interest reserve account held back by the City and \$17,801.72 will be paid by the Borrower. The deferred interest will be added to the permanent loan with an increase from \$4,383,000 to \$4,703,000.
- Clarify language of the Note with references to “Payments” and “Net Cash Flow.”
- Allow the City Loan to subordinate to a \$1,010,000 note funded by the developer dated March 10, 2005 that will fund the gap created by the partial redemption of the bonds, and

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allow the note repayment as a Permitted Expense as provided for in the City note, so long as the terms and amount do not exceed the original permanent loan by Fannie Mae.

All other terms and conditions remain as approved by the City Council.

Monte Vista Gardens Senior II Apartments – District: 5 – SNI: 680 East Valley Communities

On October 2, 2001, the City Council approved a loan of up to \$3,763,000 during construction and up to \$3,923,000 at permanent to Monte Vista Gardens Senior II, L.P. for the Monte Vista Gardens Senior II Apartments project. The existing promissory note dated July 1, 2002 states a maximum principal amount of \$2,949,035 during construction and up to \$2,729,257 at permanent or at Conversion Date, which is the date when the senior lender converts its loan to permanent. The Conversion Date occurred on January 1, 2005. On February 17, 2005, the Director of Housing approved an increase in the Loan amount at permanent from \$2,729,257 to \$3,222,933.89 and approved a deferral of the accrued interest during construction on the Loan in the amount of up to \$273,898.89.

All other terms and conditions remain as approved by the City Council.

Eight Projects with JSM Enterprises, Inc., as listed below – Districts: 4, 5, 6, 7 & 10 – SNI: N/A

JSM Enterprises Inc. (JSM) has developed and managed both affordable and market rate residential projects for over twenty-five years in Santa Clara County. Through November 2004, the City has assisted JSM in developing 13 Family, Senior, and SRO affordable housing projects. In addition, JSM became the successor developer of three projects owned by CHBA, a nonprofit developer that was dissolved in 2002. The developer has experienced operating difficulties requiring modifications to the existing business terms on eight of its projects. The Director of Housing executed the amendment of the City's Promissory Notes, Developer Loan Agreements, and Deeds of Trust on January 19, 2005 where necessary for the following projects, in accordance with the City Council-approved general parameters: Arbor Terrace, La Fenetre, Le Mirador, Miranda Villa, Plaza del Sol, Quail Hills, Sienna Senior Apartments, and The Verandas. The Director of Housing approved the following actions:

- Consent to the workout terms for the above-listed projects to cure monetary defaults.
- Authorize the conversion from monthly scheduled payments to a residual receipts repayment schedule commencing on December 1, 2004.

All other terms and conditions remain as approved by the City Council.

Loans/Grants Terms and Conditions:

None this period.

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PREDEVELOPMENT LOANS:

None this period.

TEFRA HEARINGS CONDUCTED BY THE DIRECTOR OF FINANCE

None this period.

COORDINATION:

Preparation of this report has been coordinated with the Office of the City Attorney.



SCOTT P. JOHNSON
Director of Finance



LESLYE CORSIGLIA
Director of Housing